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ATTACHMENT

MOHAN, ALEWELT & PRILLAMAN

LAWYERS

INB CENTER, SUITE 325

1 NORTH OLD STATE CAPITOL PLAZA

POST OFFICE BOX 670

SPRINGFIELD, ILLINOIS 62705

JAMES T. MOHAN

EDWARD J. ALEWELT

FRED C. PRILLAMAN

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US EPA RECORDS CENTER REGION 5



484705

TEL. 528-2517  
AREA CODE 217

December 23, 1985

Mr. William Seltzer  
Attorney at Law  
Senior Technical Advisor  
2200 Churchill Road  
Springfield, Illinois 62706

RE: People of the State of Illinois, et al. vs.  
Brighton Landfill  
Macoupin County Case No. 81-CH-10

Dear Bill:

Enclosed please find a copy of the Judgment Order entered by Judge Koval in this case last Friday, December 20, 1985.

Please give me a call if you have any questions.

Very truly yours,

MOHAN, ALEWELT & PRILLAMAN

By

  
Fred C. Prillaman

FCP/bw

Enclosure

RECEIVED  
ENFORCEMENT PROGRAMS

DEC 24 1985

Environmental Protection Agency

IN THE CIRCUIT COURT  
FOR THE SEVENTH JUDICIAL CIRCUIT  
MACOUPIN COUNTY, ILLINOIS

DEC 20 1985

PEOPLE OF THE STATE OF ILLINOIS  
and PEOPLE OF MACOUPIN COUNTY  
including the MACOUPIN COUNTY BOARD  
OF SUPERVISORS,

Plaintiffs,

v.

BRIGHTON LANDFILL, a subsidiary of  
COM-PAK ENGINEERING, INC., a  
Missouri corporation,

Defendant.

81-CH-10

JUDGMENT ORDER

THIS CAUSE comes on for hearing on Plaintiffs' Second Amended Complaint; the Plaintiff, People of the State of Illinois, being represented by Neil F. Hartigan, Attorney General of the State of Illinois and by Richard W. Cosby and Paul C. Verticchio, Special Assistant Attorneys General, the Plaintiff People of Macoupin County including the Macoupin County Board of Supervisors, being represented by Edmond H. Rees, State's Attorney of Macoupin County, and Defendant Brighton Landfill, a subsidiary of Com-Pak Engineering, Inc., a Missouri corporation being represented by Fred C. Prillaman. And the Court having considered the pleadings and evidence and arguments of counsel states and finds as follows:

1. That this Court has jurisdiction over the parties and the subject matter hereto.
2. That on December 5, 1985, a preliminary injunction was entered enjoining Defendant from accepting any more

refuse, including general solid waste, special waste and hazardous and toxic waste for disposal at its landfill southwest of the Village of Brighton in unincorporated Macoupin County until further order of this Court.

3. That the Plaintiffs have requested the Court to issue an injunction permanently enjoining Defendant Brighton Landfill from continuing to dispose of refuse, including general solid waste, special waste and hazardous and toxic waste at the landfill operated by Defendant near Brighton, Illinois for non-compliance with Section 39(c) and 39.2 of the Environmental Protection Act.

(a) That Section 39(c) of the Environmental Protection Act, Ill.Rev.Stat., ch. 111 1/2, par. 1039(c), provides that no permit for the development of a new regional pollution control facility may be granted by the Illinois Environmental Protection Agency (hereinafter "IEPA") unless the applicant submits proof to the IEPA that the location of said facility has been approved by the county board of the county, if in an unincorporated area, in which the facility is to be located.

(b) That Section 39.2 of the Environmental Protection Act, Ill.Rev.Stat., ch. 111 1/2, par. 1039.2, establishes the criteria by which the county board is to determine the suitability of the proposed new regional pollution control facility and the mechanism by which an informed, public hearing is to be held.

(c) That Section 3(x) of the Environmental Protection Act, Ill.Rev.Stat., ch. 111 1/2, par. 1003(x) defines the term "new regional pollution control facility".

(d) That Sections 3(x), 39(c) and 39.2 of the Environmental Protection Act became effective on November 12, 1981.

4. That until December 9, 1985, Defendant conducted a refuse disposal operation on a 32.11 acre site (hereinafter "Site I") and on a separate but adjacent 11.36 acre site (hereinafter "Site II"), both Site I and Site II located in unincorporated Macoupin County, Illinois and that Defendant, Brighton Landfill accepted refuse, including general solid waste, special waste, and hazardous waste at both Site I and Site II from, among other places, Jefferson County, Madison County, and St. Clair County, Illinois.

5. That on September 13, 1979, the IEPA granted to Defendant Permit No. 1979-8-OP, which allowed Defendant to operate Site II and to increase certain elevations or final contours on Site I.

6. That the IEPA, when it granted Defendant Permit No. 1979-8-OP specifically referred to certain plans and drawings, copies of which are attached to Plaintiffs' Second Amended Complaint as Exhibits E, F, G and H, and thereby established vertical and lateral boundaries of the Defendant's landfill for Site I and Site II.

7. That on February 26, 1982, Defendant filed an application to expand Site I and Site II by excavating certain trenches and by raising the final contours of the

two sites over the final contours or elevations established by Permit No. 1979-8-OP.

8. That Defendant Brighton Landfill did not obtain, nor did the IEPA require, approval for the vertical expansion of Site I and Site II from the Macoupin County Board of Supervisors, the designated local site approval agency under Sections 39(c) and 39.2 of the Environmental Protection Act.

9. That on June 21, 1982, IEPA issued permits to expand Site I (Supplemental Permit No. 1982-68) and Site II (Supplemental Permit 1982-69) in accordance with Defendant's permit application.

10. That as of September 12, 1985, Defendant exceeded the final contours or elevations of Site I and Site II as established by Permit No. 1979-8-OP by approximately ninety four thousand (94,000) cubic yards of refuse including general solid waste, special waste and hazardous and toxic waste.

11. That Defendant's landfill, consisting of Site I and Site II, is a regional pollution control facility as that term is defined by Section 3(x) of the Environmental Protection Act.

12. That Defendant's February 26, 1982 permit application to increase the capacity of Site I and Site II by vertical expansion constitutes a request for a permit to develop a new regional pollution control facility as that term is defined by Section 3(x) of the Environmental Protection Act.

13. That Supplemental Permits 1982-68 and 1982-69 were issued without proof of local siting approval as required by Section 39(c) of the Environmental Protection Act and thus are void."

14. That because Supplemental Permits 1982-68 and 1982-69 are void, that Defendant's current valid operating permit is Permit No. 1979-8-OP.

15. That because Defendant has exceeded the capacity of Site I and Site II as established by Permit No. 1979-8-OP, Defendant shall not accept for disposal any additional refuse, including general solid waste, special waste and hazardous and toxic waste at Site I and Site II.

16. That pursuant to Supplemental Permits No. 1982-68 and 1982-69, Defendant has excavated a trench in the southwest corner of Site II. The excavated trench has or will serve as a pathway for migration of contaminants into the groundwater under the landfill.

17. That pursuant to Supplemental Permits No. 1982-68 and 1982-69 and pursuant to Permit No. 1975-59-OP and Permit No. 1979-8-OP, Defendant has constructed certain groundwater monitoring wells. Said monitoring wells have or may serve as pathways for migration of contaminants into the groundwater under the landfill.

18. That the direction of the flow of groundwater under the landfill is generally from west to east with some northerly and southerly trends. The groundwater is intercepted by an unnamed stream which is adjacent to the northern boundary of the landfill and which crosses the

eastern portion of the landfill. Any groundwater not intercepted by the unnamed stream to the north and east of the landfill is intercepted by an unnamed stream south of the landfill, said southern stream joining the first mentioned stream approximately two thousand (2000) feet from the southern boundary of the landfill.

19. That in order to determine the present and further effect of Defendant's landfill on the waters of the State of Illinois, it is imperative that the proper monitoring points be established to insure that all of the contaminant migration will be detected. Because of the discontinuous nature of the permeable zones beneath the site and because said zones can extend beyond the boundaries of the landfill, groundwater monitoring wells placed along the boundary of Site I and Site II, no matter how numerous, offer no assurance to this Court that all contaminant migration will be detected. The Court finds, however, that the unnamed streams discussed in paragraph 18 will intercept all contaminant migration from the landfill and that by monitoring said streams the true and total effect of the landfill on the waters of the state of Illinois can be assessed.

20. That in order to minimize or eliminate further effects on the groundwater beneath the landfill and on the streams which intercept the groundwater, Defendant must cease accepting wastes at its landfill, close Site I and Site II, and provide post-closure care and monitoring in

accordance with the Closure/Post-Closure Plan attached hereto and made a part hereof as Exhibit A.

21. That in order to eliminate possible pathways for migration of contaminants into the groundwater, Defendant must remove and seal all groundwater monitoring wells at the subject landfill.

22. That in order to avoid providing inadvertently new pathways for migration of contaminants into the groundwater, Defendant shall not cause or allow any further drilling or excavating at the landfill, except by further Order of the Court for good cause shown.

23. That in order to eliminate a possible pathway for migration of contaminants into the groundwater, Defendant will seal with clay the permeable layer found in the excavated trench in the southwest corner of Site II, and shown as Phase I on Exhibits I and J attached to the Second Amended Complaint, at elevations 575-585 MSL.

24. That the excavated trench in the southwest corner of Site II, if allowed to remain open, might prove to be an attractive nuisance. That in order to eliminate said problem, Defendant is directed to fill said trench. Defendant may deposit non-putrescible construction and demolition debris in the trench up to elevation 620 MSL after sealing the permeable zones.

25. That there presently exists in the vicinity of the intersection of the unnamed stream to the east of the landfill and the township road which is immediately adjacent to the south boundary of the landfill an open dump as that

term is defined by the Section 3(r) of Environmental Protection Act. This Court finds that Defendant is not responsible for the open dump, but understands that Defendant will clean up the refuse dumped there as part of the closure of Site I and Site II. Defendant may deposit the refuse in the excavated trench in the southwest corner of Site II upon giving the parties hereto two (2) weeks prior notice of the date of deposition of the refuse.

26. That all closure activities described in Exhibit A shall be completed by December 19, 1986, except that the sealing of the permeable zones in the excavated trench in the southwest corner of Site II and the groundwater monitoring wells shall be completed within one hundred eighty (180) days of the entry of this order.

27. That it is necessary for Defendant to provide post-closure care and monitoring as provided in Exhibit A for a period of thirty (30) years following the completion of closure.

28. That Defendant shall be permitted to use the funds now on deposit with the First National Bank of Peoria, Illinois, as Trustee under Agreement dated January 11, 1984, for purposes of performing the closure and post-closure activities described in Exhibit A hereto.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED as follows:

1. Defendant is permanently enjoined from accepting any more refuse, including general solid waste, special waste and hazardous and toxic waste for disposal at Site I

and Site II of its landfill southwest of the Village of Brighton in Macoupin County, Illinois;

2. Defendant shall close and provide post-closure care and monitoring for the subject landfill in accordance with the Closure/Post-Closure Care Plan attached hereto and made part hereof as Exhibit A;

3. Defendant shall remove and seal all groundwater monitoring wells at the subject landfill;

4. Defendant shall seal with clay the permeable zone located at elevations 575-585 MSL near the bottom of the trench located in the southwest section of Site II shown as Phase I on Exhibits I and J to the Second Amended Complaint;

5. Defendant shall, after sealing the permeable zone, fill the excavated trench located in the southwest section of Site II provided, however, that after providing the seal and for a period up to and including October 15, 1986, Defendant may deposit non-putrescible construction and demolition debris only in that trench up to elevation 620 MSL;

6. Defendant shall cause or allow no new drilling or excavating at the subject landfill, except by further Order of this Court, for good cause shown;

7. Defendant shall complete all closure activities by December 19, 1986, except for the sealing of the trench bottom and the groundwater monitoring wells referred to above, which shall be completed within 180 days of the entry of this Order;

8. Defendant shall monitor the streams draining the facility, at the points and frequencies and for the constituents shown on Exhibit A hereto;

9. Defendant shall provide the post-closure care and monitoring provided in Exhibit A hereto for a period of 30 years following completion of closure;

10. Defendant shall be permitted to use the funds now on deposit with the First National Bank of Peoria, Illinois, as Trustee under Agreement dated January 11, 1984, for purposes of performing the closure and post-closure activities described in Exhibit A hereto;


11. Defendant shall clean up the open dump adjacent to the southeast boundary of its landfill and be allowed to deposit said refuse in the excavated trench in the southwest section of Site II provided it gives two (2) weeks prior notice to Plaintiffs before placing the refuse in said trench;

12. Defendant shall file progress reports with this Court and serve copies on the Plaintiffs, the first of which shall be filed 120 days after the date of this Order, and the second of which shall be filed 240 days after the date of this Order;

13. Defendant shall allow any authorized representative of Plaintiffs the authority to enter the subject landfill at all reasonable times during the period of closure and post-closure care, for the purpose of inspecting and investigating to ascertain compliance with this Order;

14. The Court shall retain jurisdiction over the parties and the subject matter hereto, and hereby orders the parties to appear again before the Court on ~~Monday~~ <sup>FRIDAY</sup>, December 19, 1986, at 1:30 o'clock P.M., for the purpose of determining compliance with this Order.

ENTER this 20<sup>th</sup> day of December, 1985.

  
JOSEPH P. KOVAL, Circuit Judge

APPROVED:

PEOPLE OF THE STATE OF ILLINOIS,

BY: NEIL F. HARTIGAN  
Attorney General  
State of Illinois

BY: 

PEOPLE OF MACOUPIN COUNTY,  
including the MACOUPIN COUNTY  
BOARD OF SUPERVISORS

BY: EDMOND H. REES  
State's Attorney  
Macoupin County

BY: 

BRIGHTON LANDFILL, A Subsidiary  
of COM-PAK ENGINEERING, INC.,

BY: 

BRIGHTON LANDFILL  
D/B/A COM-PAK ENGINEERING  
CLOSURE/POST-CLOSURE PLAN  
BRIGHTON, ILLINOIS

This Closure/Post-Closure Plan is intended to minimize threats to human health and the environment from post-closure escape of waste materials, leachate or contaminated rainfall. One copy of this plan will be kept at the facility office and an additional copy will be kept in the Com-Pak Engineering business office in St. Louis, Missouri.

After facility closure the facility copy of this plan will be kept at the Com-Pak Engineering business office in St. Louis, Missouri. After closure is completed and certified, any questions concerning this plan should be directed to:

Facility Manager  
Brighton Landfill  
1201 Dunn Road  
St. Louis, MO 63138  
Phone: (314) 868-2400

Closure Plan

Cover material for closure will be obtained from on-site soils, principally fine grained tills in the range of silty clay to silty clay loam. This cover should provide long-term minimization of infiltrating precipitation on the closed acreage. Eight-inch lifts of soil will be placed on top of the six-inch daily cover, and compacted by bulldozer.

Compaction will reduce the 8" lifts to roughly 6". This procedure will be repeated three times. Depth probes will be made subsequent to compaction of the final cover to assure the required 24" of final cover. A field log will be used to indicate the sampling locations and the depths of cover at each location.

Topsoil will be obtained from the adjacent property controlled by Brighton Landfill. The topsoil will be relatively free from large roots, sticks, weeds, brush or stones larger than 1 inch in diameter. The vegetative layer will be two inches deep allowing moisture to reach the shallow roots of grasses, while the two inch depth is thick enough to prevent root penetration into the cover. This depth will also support the grasses to be planted.

Immediately prior to seeding, the topsoil will be scarified to loosen the soil and make it more receptive to seeding. After scarification, agricultural ground lime will be applied to the surface at a rate of two tons per acre.

A. Seed Mix

Kentucky Blue Grass	- 40 lbs/acre
Perennial Rye	- 40 lbs/acre
Common Fescue	- 40 lbs/acre
Annual Rye	- 60 lbs/acre
Kentucky 31 (Fall Fescue)	- 60 lbs/acre

B. Fertilizer Blend (Ratio 16-16-16)

300 lbs of nutrients/acre

Nitrogen	- 100 lbs/acre
Phosphorus	- 100 lbs/acre
Potassium	- 100 lbs/acre

The sum of the seed mix and fertilizer blend are to be mixed and applied to the prepared base. No seed shall be sown during high winds or before the ground is in proper seeding condition.

#### C. Mulch

Immediately following seeding; the side slopes of the site will receive a blanket of mulch which may consist of the following:

Wood Fiber Cellulose	- 2000 lbs/acre
Straw	- 4000 lbs/acre*

\* 120 bales/acre will be used on slopes greater than 5%.

Mulch will be applied by hand or machine method and will be spread loose enough to permit air to circulate, but compact enough to minimize erosion.

#### D. Tackifier (Celtite or Curasol)\*\*

Application rate: 60 Gallons/acre

\*\* Required only on slopes greater than 5%.

Since the closure elevations are higher than the surrounding area, precipitation run-on is avoided. Natural topographic relief promotes drainage, transporting run-off to the established drainage patterns. Subsequent backfilling of adjacent areas will also enhance the site topography, as well as improve drainage.

Decontamination of the office and garage area, as well as the earth moving equipment will be required after closure is completed. This will ensure the removal of all hazardous waste and residues from machinery that has been in direct contact with hazardous wastes.

When closure is completed, Brighton Landfill and a registered professional engineer will certify to Plaintiffs that the facility has been closed in accordance herewith.

Within 90 days after closure is completed, Brighton Landfill will submit to the Regional Administration and local zoning authority a plat of survey indicating location and dimensions of landfill areas, to permanent survey markers. This plat will be prepared and certified by a registered land surveyor, and filed with the County Recorder. The plat will prominently display notice that Brighton Landfill will restrict disturbance to the site. In addition, Brighton Landfill will supply the location and quantity of hazardous wastes disposed of within each area, in accordance with site records and to the best of its knowledge. Any changes in type, location, or quantity of hazardous wastes within these areas, discovered after the plat of survey is filed, will be reported to the same agencies with whom the plat and record were previously filed.

Post-Closure

Post-closure care will be provided for 30 years. The facility will be inspected quarterly for evidence of subsidence, cracks, erosion or gas migration, establishment of vegetative cover, as well as the condition of fencing, gates and signs.

Inspection of cover materials may turn up areas of erosion or cracking which, left unattended, will lead to more serious problems of infiltration. Should such cover defects arise, the problem area will be back-filled with additional soil, compacted, covered with topsoil and refertilized, reseeded and mulched per prior specifications. It is estimated that about 5% of the site will annually require replacement of soil and vegetation.

After vegetation is established, maintenance is necessary to minimize erosion and to keep less desirable native species from taking over. Maintenance will include annual mowing to keep down weed and brush species and to help control insect population. In areas which exhibit vegetative stress from either erosion, drought or gas generation, the effected area will be re-covered with topsoil, seeded, fertilized, and mulched per prior specification.

During the closure and post-closure care periods, the stream points indicated on Attachment 2 will be sampled quarterly for the hazardous constituent of Cadmium, Chromium,

Cyanide, Lead, Nickel and Zinc. These are the hazardous constituents contained in RCRA hazardous wastes, historically accepted at Brighton Landfill. In addition, Brighton Landfill shall sample quarterly for TOX and TOC. The first such sampling shall be conducted in February, 1986, and thereafter in every May, August, November and February through the post-closure period. If during any of the aforesaid months the flow of water in the streams is insufficient to sample, Brighton Landfill will return to the sample points as soon as practicable when there is sufficient flow and conduct the required sampling, so that there will be at least four (4) samples taken at each stream point in each year throughout the proposed closure period. To determine whether the site is impacting surface water, annual comparisons against the background stream data will be performed. Should such testing show that surface water is being impacted, an engineering firm will be retained to evaluate the situation and propose to Plaintiffs a method to correct the problem. Should any of the parameters set forth above exceed one-half of the levels of concentration specified in the secondary contact and indigenous aquatic life standards appearing in 35 Illinois Register Sections 302.401 et seq., Brighton Landfill shall take the action specified in the immediately preceding sentence.

During site inspections by Plaintiffs, the enclosed form, Attachment 3, will be filled out identifying

problem areas and actions to be taken. Wooden lath will also be inserted at the points on the landfill where the referenced problems exist. These inspection reports, stream monitoring results and comparison calculations and results will be kept at Brighton Landfill's business office.

During post-closure, the present security system of fencing/warning signs will remain in place. Therefore, unauthorized entry will be eliminated.